

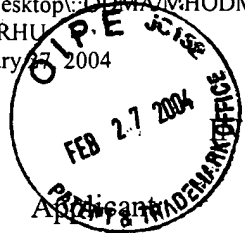
03-01-04

DAC 1647

#14

@PFDesktop\ODMA\MHODMA\HBSR05;ilmanage;452164;1
HEW/RHU
February 27, 2004

PATENT APPLICATION
Attorney's Docket No.: MNI-108CP2 (1855.2067-002)



THE UNITED STATES PATENT AND TRADEMARK OFFICE **RECEIVED**

Applicant: Sean A. McCarthy MAR 04 2004

Application No.: 09/263,022 (ABANDONED) **OFFICE OF PETITIONS**

Filed: March 5, 1999 Examiner: David S. Romeo

Confirmation No.: 1313

For: NOVEL HUMAN DICKKOPF-RELATED PROTEIN AND NUCLEIC ACID
MOLECULES AND USES THEREFOR

Date: February 27, 2004

EXPRESS MAIL LABEL NO. EL 955641153 US

PETITION UNDER 37 C.F.R. § 1.182 OR § 1.183
REQUESTING ENTRY OF AMENDMENT

VIA EXPRESS MAIL LABEL NO. EL 955641153 US
Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This Petition is being filed to request entry of an amendment to the specification of the subject patent application. The undersigned recognizes that the application is currently abandoned. However, amendment of the application is necessary to perfect the priority claim under 35 U.S.C. § 120, and preserve the right to claim priority through the subject application in a subsequent pending continuation application (Application No. 09/972,473, filed October 4, 2001).

The subject application, now abandoned, was filed by Applicant's prior counsel under 35 U.S.C. § 111 and 37 C.F.R. § 1.53(b) on March 5, 1999 with a transmittal letter stating:

Transmitted herewith for filing is the Continuation-in-Part of **PCT/US98/07894, filed April 16, 1998**, which in turn claims the benefit of prior-filed application **U.S. Patent Application Serial No. 09/009,802, filed January 20, 1998**. U.S. Patent Application Serial No. 09/009,802 claims the benefit of prior-filed U.S. **Provisional Patent Application Serial No. 60/071,589, filed January 15, 1998** and of prior-filed **U.S. Patent Application Serial No. 08/842,898, filed April 17, 1997**. U.S. Patent Application Serial No. 08/842,898 is a continuation-in-part of **U.S. Patent Application No. 08/843,704, filed April 16, 1997**.

(Transmittal Letter at 1.)

The specification as filed contained a "Cross-Reference to Related Applications" paragraph immediately following the title, that contained reference to each of the priority applications. However, the reference to the priority applications did not specify the relationships of the applications, with the exception of U.S. Patent Application Serial No. 08/842,898 being a continuation-in-part of U.S. Patent Application No. 08/843,704, as required by former 37 C.F.R. § 1.78(a)(2), which is applicable to the subject application.

The subject application was abandoned on October 7, 2001, in favor of Continuation Application No. 09/972,473, filed on October 4, 2001.

Recently, the file of pending Continuation Application No. 09/972,473 and its priority applications, including the subject application, were transferred to this firm. As a result of a review of these files, the undersigned became aware that the subject application had not been amended to supply the relationships of the priority applications. Accordingly, the Amendment filed concurrently herewith directs amendment of the specification of the subject application to contain a "Cross-Reference to Related Applications" paragraph that contains specific reference to the priority applications, including the relationships of the priority applications, as required by former 35 U.S.C. § 120 and former 37 C.F.R. § 1.78(a)(2), which are applicable to the subject application.

This petition can and should be granted because, as stated by the court in Sampson, "[a] reading of [35 U.S.C.] § 120 makes it clear that an amendment may be entered in an abandoned

application for purposes other than prosecution.” Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136, 137 (D.D.C. 1976) (Authorizing amendment of the related applications paragraph of an abandoned intermediate application to perfect a priority claim in a reissue application).

Entry of the concurrently filed Amendment is respectfully requested in order to perfect the specific reference required by 35 U.S.C. § 120 and 37 C.F.R. § 1.78(a)(2) in the subject application, and to permit Applicant to claim priority in pending Continuation Application No. 09/972,473 through the subject application. The PTO is also requested to issue a Corrected Filing Receipt showing the relationships of the priority applications.

In accordance with 37 C.F.R. § 1.182, a check in the amount of \$130.00 in payment of the petition fee under 37 C.F.R. § 1.17(h) is enclosed herewith.

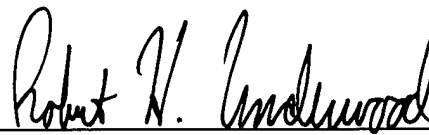
To the extent that it may be necessary, please consider this paper as a Petition under either 37 C.F.R. § 1.183. Authorization to charge any deficiency or credit any overpayment in the fees that may be due in this matter, including any fees under 37 C.F.R. § 1.17(h), to Deposit Account Number 08-0380 is hereby granted. A copy of this letter is enclosed for accounting purposes.

The Patent Office is invited to contact the undersigned if they feel that a telephone conference would expedite resolution of this matter.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By



Robert H. Underwood
Registration No. 45,170
Telephone: (978) 341-0036
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated: February 27, 2004